

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4841 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AHMEDABAD SECONDARY SCHOOL MANAGEMENT ASSOCIATION

Versus

GUJARAT SECONDARY EDUCATION BOARD & ANR.

Appearance:

MS MAMTA VYAS for Petitioners

MS HEMALI DAVE for Respondent No. 1

None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/12/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties and perused the Special Civil Application. This Special Civil Application was ordered to be heard along with Special Civil Application No.1490/84. The Special Civil Application No.1490/84 has already been dismissed by this court on 15th July, 1996. The counsel for the parties does not dispute the aforesaid fact.

2. The Education Department of Government of Gujarat made an order on 21st January, 1980 wherein it has been decided that where the result of the schools, which are receiving the grand-in-aid, fall short of the percentages given therein, there may be penal cut in the grant at the percentage as given out therein. The penal cut at the rate of 10% in the grant of the school, which is in urban area will be there where in case the result of the examination is of 21% to 35%.

3. It is not in dispute that the result of the petitioner no.2 school for the year 1981-82 was 33% and as such, the penal cut in grant which was ordered at the rate of 10% is strictly in consonance with the aforesaid Government's order. For other years also, the penal cut has been ordered with reference to the shortfall percentage of the result.

4. I fail to see any justification in the challenge to those orders by the petitioners. The grant are being given for imparting education and not for wastage of the amount. In case, a school is unable to give out good examination result, I do not find any illegality in the action of the respondents to make penal cut in the grant. The counsel for the petitioners contended that the authority which has made the order for the penal cut in the grant was not competent. Even if it is taken for the sake of argument then too, sitting under Article 226 of the Constitution, I do not consider it to be a fit case where interference should be made in the order impugned. In these facts, by the order of the penal cut of the grant, no failure of justice is caused in the present case and as such, the exercise of jurisdiction under Article 226 of the Constitution is not warranted. Reference in this respect may have to the two decisions of the Supreme Court in the case of A.M. Allison vs. B.L. Sen reported in AIR 1957 SC 227 and in the case of Balvant Rai vs. M.N. Nagrashna reported in AIR 1960 SC 407.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated.

zgs/-